



February 28, 2003

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## SENATE BILL No. 314

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DIGEST OF SB 314 (Updated February 25, 2003 12:52 PM - DI 106)

**Citations Affected:** IC 35-48.

**Synopsis:** Drug paraphernalia. Makes the reckless possession or sale of drug paraphernalia a Class B misdemeanor or a Class D felony for repeat offenses. Makes the knowingly or intentionally possessing drug paraphernalia a Class A misdemeanor, or a Class D felony for repeat offenses.

**Effective:** July 1, 2003.

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January 15, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.  
February 27, 2003, amended, reported favorably — Do Pass.

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SB 314—LS 7025/DI 105+



February 28, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## SENATE BILL No. 314

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-48-4-8.3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.3. (a) A person who  
3 possesses a raw material, an instrument, a device, or other object that  
4 the person intends to use for:  
5 (1) introducing into the person's body a controlled substance;  
6 (2) testing the strength, effectiveness, or purity of a controlled  
7 substance; or  
8 (3) enhancing the effect of a controlled substance;  
9 in violation of this chapter commits a Class A infraction for possessing  
10 paraphernalia.  
11 (b) A person who ~~(1)~~ knowingly or intentionally violates subsection  
12 (a) **commits a Class A misdemeanor. However, the offense is a**  
13 **Class D felony if the person has a prior unrelated judgment or**  
14 **conviction under this section. and**  
15 ~~(2) has a previous judgment or conviction under this section;~~  
16 ~~commits possession of paraphernalia, a Class D felony.~~  
17 (c) A person who recklessly possesses a raw material, an instrument,

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a device, or other object that is to be used primarily for:

- (1) introducing into the person's body a controlled substance;
- (2) testing the strength, effectiveness, or purity of a controlled substance; or
- (3) enhancing the effect of a controlled substance;

in violation of this chapter commits reckless possession of paraphernalia, a ~~Class A~~ **Class B** misdemeanor. However, the offense is a Class D felony if the person has a previous judgment or conviction under this section.

SECTION 2. IC 35-48-4-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.5. (a) A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:

- (1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, or a controlled substance;
- (2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, or a controlled substance;
- (3) enhancing the effect of a controlled substance;
- (4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, or a controlled substance;
- (5) diluting or adulterating marijuana, hash oil, hashish, or a controlled substance by individuals; or
- (6) any purpose announced or described by the seller that is in violation of this chapter;

commits a Class A infraction for dealing in paraphernalia.

(b) A person who

- (+) knowingly or intentionally violates subsection (a) **commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated judgment or conviction under this section. and**

~~(2) has a previous judgment or conviction under this section; commits dealing in paraphernalia, a Class D felony:~~

(c) A person who recklessly keeps for sale, offers for sale, or delivers an instrument, a device, or other object that is to be used primarily for:

- (1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, or a controlled substance;
- (2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, or a controlled substance;
- (3) enhancing the effect of a controlled substance;



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(4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, or a controlled substance;

(5) diluting or adulterating marijuana, hash oil, hashish, or a controlled substance by individuals; or

(6) any purpose announced or described by the seller that is in violation of this chapter;

commits reckless dealing in paraphernalia, a ~~Class A~~ **Class B** misdemeanor. However, the offense is a Class D felony if the person has a previous judgment or conviction under this section.

~~(d)~~ (c) This section does not apply to the following:

(1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of marijuana, hash oil, hashish, or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

(2) Items marketed for or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 314, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 11, delete ":".

Page 1, line 12, strike "(1)".

Page 1, line 12, delete "(a);" and insert **"(a) commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated judgment or conviction under this section."**

Page 1, line 12, strike "and".

Page 1, run in lines 11 through 12.

Page 1, strike lines 13 through 14.

Page 1, reset in roman lines 15 through 17.

Page 2, reset in roman lines 1 through 4.

Page 2, line 5, reset in roman "paraphernalia, a".

Page 2, line 5, before "misdemeanor." insert **"Class B"**.

Page 2, line 5, reset in roman "misdemeanor. However, the offense is a Class".

Page 2, reset in roman lines 6 through 7.

Page 2, line 26, delete ":".

Page 2, line 27, strike "(1)".

Page 2, line 27, delete "(a);" and insert **"(a) commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated judgment or conviction under this section."**

Page 2, line 27, strike "and".

Page 2, strike lines 28 through 29.

Page 2, reset in roman lines 30 through 42.

Page 3, reset in roman lines 1 through 2.

Page 3, line 3, reset in roman "commits reckless dealing in paraphernalia, a".

Page 3, line 3, after "Class A" insert **"Class B"**.

Page 3, line 3, reset in roman "misdemeanor."

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Page 3, reset in roman lines 4 through 5.  
and when so amended that said bill do pass.

(Reference is to SB 314 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 10, Nays 0.

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